



Sen. Toi W. Hutchinson

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LRB096 10797 RLC 26703 a

1 AMENDMENT TO HOUSE BILL 2542

2 AMENDMENT NO. _____. Amend House Bill 2542 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 12-7.3, 12-7.4, and 12-7.5 as follows:

6 (720 ILCS 5/12-7.3) (from Ch. 38, par. 12-7.3)
7 Sec. 12-7.3. Stalking.

8 (a) A person commits stalking when he or she ~~7~~ knowingly
9 engages in a course of conduct directed at a specific person,
10 and he or she knows or should know that this course of conduct
11 would cause a reasonable person to:

12 (1) fear for his or her safety or the safety of a third
13 person; or

14 (2) suffer other emotional distress.

15 (a-3) A person commits stalking when he or she, knowingly
16 and without lawful justification, on at least 2 separate

1 occasions follows another person or places the person under
2 surveillance or any combination thereof and:

3 (1) at any time transmits a threat of immediate or
4 future bodily harm, sexual assault, confinement or
5 restraint and the threat is directed towards that person or
6 a family member of that person; or

7 (2) places that person in reasonable apprehension of
8 immediate or future bodily harm, sexual assault,
9 confinement or restraint; or

10 (3) places that person in reasonable apprehension that
11 a family member will receive immediate or future bodily
12 harm, sexual assault, confinement, or restraint.

13 (a-5) A person commits stalking when he or she has
14 previously been convicted of stalking another person and
15 knowingly and without lawful justification on one occasion:

16 (1) follows that same person or places that same person
17 under surveillance; and

18 (2) transmits a threat of immediate or future bodily
19 harm, sexual assault, confinement or restraint; and

20 (3) the threat is directed towards that person or a
21 family member of that person.

22 (b) Sentence. Stalking is a Class 4 felony. A second or
23 subsequent conviction for stalking is a Class 3 felony.

24 (c) Definitions. For purposes of this Section:

25 (1) "Course of conduct" means 2 or more acts, including
26 but not limited to acts in which a defendant directly,

1 indirectly, or through third parties, by any action,
2 method, device, or means follows, monitors, observes,
3 surveils, threatens, or communicates to or about, a person,
4 engages in other non-consensual contact, or interferes
5 with or damages a person's property or pet. A course of
6 conduct may include contact via electronic communications.

7 (2) "Electronic communication" means any transfer of
8 signs, signals, writings, sounds, data, or intelligence of
9 any nature transmitted in whole or in part by a wire,
10 radio, electromagnetic, photoelectric, or photo-optical
11 system. "Electronic communication" includes transmissions
12 by a computer through the Internet to another computer.

13 (3) "Emotional distress" means significant mental
14 suffering, anxiety or alarm.

15 (4) "Family member" means a parent, grandparent,
16 brother, sister, or child, whether by whole blood,
17 half-blood, or adoption and includes a step-grandparent,
18 step-parent, step-brother, step-sister or step-child.
19 "Family member" also means any other person who regularly
20 resides in the household, or who, within the prior 6
21 months, regularly resided in the household.

22 (5) "Follows another person" means (i) to move in
23 relative proximity to a person as that person moves from
24 place to place or (ii) to remain in relative proximity to a
25 person who is stationary or whose movements are confined to
26 a small area. "Follows another person" does not include a

1 following within the residence of the defendant.

2 (6) "Non-consensual contact" means any contact with
3 the victim that is initiated or continued without the
4 victim's consent, including but not limited to being in the
5 physical presence of the victim; appearing within the sight
6 of the victim; approaching or confronting the victim in a
7 public place or on private property; appearing at the
8 workplace or residence of the victim; entering onto or
9 remaining on property owned, leased, or occupied by the
10 victim; or placing an object on, or delivering an object
11 to, property owned, leased, or occupied by the victim.

12 (7) "Places a person under surveillance" means: (1)
13 remaining present outside the person's school, place of
14 employment, vehicle, other place occupied by the person, or
15 residence other than the residence of the defendant; or (2)
16 placing an electronic tracking device on the person or the
17 person's property.

18 (8) "Reasonable person" means a person in the victim's
19 situation.

20 (9) "Transmits a threat" means a verbal or written
21 threat or a threat implied by a pattern of conduct or a
22 combination of verbal or written statements or conduct.

23 (d) Exemptions.

24 (1) This Section does not apply to any individual or
25 organization (i) monitoring or attentive to compliance
26 with public or worker safety laws, wage and hour

1 requirements, or other statutory requirements, or (ii)
2 picketing occurring at the workplace that is otherwise
3 lawful and arises out of a bona fide labor dispute,
4 including any controversy concerning wages, salaries,
5 hours, working conditions or benefits, including health
6 and welfare, sick leave, insurance, and pension or
7 retirement provisions, the making or maintaining of
8 collective bargaining agreements, and the terms to be
9 included in those agreements.

10 (2) This Section does not apply to an exercise of the
11 right to free speech or assembly that is otherwise lawful.

12 (3) Telecommunications carriers, commercial mobile
13 service providers, and providers of information services,
14 including, but not limited to, Internet service providers
15 and hosting service providers, are not liable under this
16 Section, except for willful and wanton misconduct, by
17 virtue of the transmission, storage, or caching of
18 electronic communications or messages of others or by
19 virtue of the provision of other related
20 telecommunications, commercial mobile services, or
21 information services used by others in violation of this
22 Section.

23 (b-5) The incarceration of a person in a penal institution
24 who commits the course of conduct or transmits a threat is not
25 a bar to prosecution under this Section.

26 ~~(c) Exemption. This Section does not apply to picketing~~

1 ~~occurring at the workplace that is otherwise lawful and arises~~
2 ~~out of a bona fide labor dispute, or any exercise of the right~~
3 ~~of free speech or assembly that is otherwise lawful.~~

4 ~~(d) For the purpose of this Section, a defendant "places a~~
5 ~~person under surveillance" by: (1) remaining present outside~~
6 ~~the person's school, place of employment, vehicle, other place~~
7 ~~occupied by the person, or residence other than the residence~~
8 ~~of the defendant; or (2) placing an electronic tracking device~~
9 ~~on the person or the person's property.~~

10 ~~(e) For the purpose of this Section, "follows another~~
11 ~~person" means (i) to move in relative proximity to a person as~~
12 ~~that person moves from place to place or (ii) to remain in~~
13 ~~relative proximity to a person who is stationary or whose~~
14 ~~movements are confined to a small area. "Follows another~~
15 ~~person" does not include a following within the residence of~~
16 ~~the defendant.~~

17 ~~(f) For the purposes of this Section and Section 12-7.4,~~
18 ~~"bona fide labor dispute" means any controversy concerning~~
19 ~~wages, salaries, hours, working conditions, or benefits,~~
20 ~~including health and welfare, sick leave, insurance, and~~
21 ~~pension or retirement provisions, the making or maintaining of~~
22 ~~collective bargaining agreements, and the terms to be included~~
23 ~~in those agreements.~~

24 ~~(g) For the purposes of this Section, "transmits a threat"~~
25 ~~means a verbal or written threat or a threat implied by a~~
26 ~~pattern of conduct or a combination of verbal or written~~

1 ~~statements or conduct.~~

2 ~~(h) For the purposes of this Section, "family member" means~~
3 ~~a parent, grandparent, brother, sister, or child, whether by~~
4 ~~whole blood, half blood, or adoption and includes a~~
5 ~~step grandparent, step parent, step brother, step sister or~~
6 ~~step child. "Family member" also means any other person who~~
7 ~~regularly resides in the household, or who, within the prior 6~~
8 ~~months, regularly resided in the household.~~

9 (Source: P.A. 95-33, eff. 1-1-08.)

10 (720 ILCS 5/12-7.4) (from Ch. 38, par. 12-7.4)

11 Sec. 12-7.4. Aggravated stalking.

12 (a) A person commits aggravated stalking when he or she, in
13 conjunction with committing the offense of stalking, also does
14 any of the following:

15 (1) causes bodily harm to the victim;

16 (2) confines or restrains the victim; or

17 (3) violates a temporary restraining order, an order of
18 protection, a stalking no contact order, a civil no contact
19 order, or an injunction prohibiting the behavior described
20 in subsection (b)(1) of Section 214 of the Illinois
21 Domestic Violence Act of 1986.

22 (b) Sentence. Aggravated stalking is a Class 3 felony. A
23 second or subsequent conviction for aggravated stalking is a
24 Class 2 felony.

25 (c) Exemptions ~~Exemption~~.

1 (1) This Section does not apply to any individual or
2 organization (i) monitoring or attentive to compliance
3 with public or worker safety laws, wage and hour
4 requirements, or other statutory requirements, or (ii)
5 picketing occurring at the workplace that is otherwise
6 lawful and arises out of a bona fide labor dispute
7 including any controversy concerning wages, salaries,
8 hours, working conditions or benefits, including health
9 and welfare, sick leave, insurance, and pension or
10 retirement provisions, the managing or maintenance of
11 collective bargaining agreements, and the terms to be
12 included in those agreements., or any

13 (2) This Section does not apply to an exercise of the
14 right of free speech or assembly that is otherwise lawful.

15 (3) Telecommunications carriers, commercial mobile
16 service providers, and providers of information services,
17 including, but not limited to, Internet service providers
18 and hosting service providers, are not liable under this
19 Section, except for willful and wanton misconduct, by
20 virtue of the transmission, storage, or caching of
21 electronic communications or messages of others or by
22 virtue of the provision of other related
23 telecommunications, commercial mobile services, or
24 information services used by others in violation of this
25 Section.

26 ~~(d) For purposes of this Section, "bona fide labor dispute"~~

1 ~~has the meaning ascribed to it in Section 12-7.3.~~

2 (Source: P.A. 88-402; 88-677, eff. 12-15-94; 89-377, eff.
3 8-18-95.)

4 (720 ILCS 5/12-7.5)

5 Sec. 12-7.5. Cyberstalking.

6 (a) A person commits cyberstalking when he or she engages
7 in a course of conduct using electronic communication directed
8 at a specific person, and he or she knows or should know that
9 would cause a reasonable person to:

10 (1) fear for his or her safety or the safety of a third
11 person; or

12 (2) suffer other emotional distress.

13 (a-3) A person commits cyberstalking when he or she,
14 knowingly and without lawful justification, on at least 2
15 separate occasions, harasses another person through the use of
16 electronic communication and:

17 (1) at any time transmits a threat of immediate or
18 future bodily harm, sexual assault, confinement, or
19 restraint and the threat is directed towards that person or
20 a family member of that person, or

21 (2) places that person or a family member of that
22 person in reasonable apprehension of immediate or future
23 bodily harm, sexual assault, confinement, or restraint; or

24 (3) at any time knowingly solicits the commission of an
25 act by any person which would be a violation of this Code

1 directed towards that person or a family member of that
2 person.

3 (a-5) A person commits cyberstalking when he or she,
4 knowingly and without lawful justification, creates and
5 maintains an Internet website or webpage which is accessible to
6 one or more third parties for a period of at least 24 hours,
7 and which contains statements harassing another person and:

8 (1) which communicates a threat of immediate or future
9 bodily harm, sexual assault, confinement, or restraint,
10 where the threat is directed towards that person or a
11 family member of that person, or

12 (2) which places that person or a family member of that
13 person in reasonable apprehension of immediate or future
14 bodily harm, sexual assault, confinement, or restraint, or

15 (3) which knowingly solicits the commission of an act
16 by any person which would be a violation of this Code
17 directed towards that person or a family member of that
18 person.

19 ~~(b) As used in this Section:~~

20 ~~"Harass" means to engage in a knowing and willful course of~~
21 ~~conduct directed at a specific person that alarms, torments, or~~
22 ~~terrorizes that person.~~

23 ~~"Third party" means any person other than the person~~
24 ~~violating these provisions and the person or persons towards~~
25 ~~whom the violator's actions are directed.~~

26 ~~"Electronic communication" means any transfer of signs,~~

1 ~~signals, writings, sounds, data, or intelligence of any nature~~
2 ~~transmitted in whole or in part by a wire, radio,~~
3 ~~electromagnetic, photoelectric, or photo-optical system.~~
4 ~~"Electronic communication" includes transmissions by a~~
5 ~~computer through the Internet to another computer.~~

6 (b) ~~(e)~~ Sentence. Cyberstalking is a Class 4 felony. A
7 second or subsequent conviction for cyberstalking is a Class 3
8 felony.

9 (c) For purposes of this Section:

10 (1) "Course of conduct" means 2 or more acts, including
11 but not limited to acts in which a defendant directly,
12 indirectly, or through third parties, by any action,
13 method, device, or means follows, monitors, observes,
14 surveils, threatens, or communicates to or about, a person,
15 engages in other non-consensual contact, or interferes
16 with or damages a person's property or pet. The
17 incarceration in a penal institution of a person who
18 commits the course of conduct is not a bar to prosecution
19 under this Section.

20 (2) "Electronic communication" means any transfer of
21 signs, signals, writings, sounds, data, or intelligence of
22 any nature transmitted in whole or in part by a wire,
23 radio, electromagnetic, photoelectric, or photo-optical
24 system. "Electronic communication" includes transmissions
25 by a computer through the Internet to another computer.

26 (3) "Emotional distress" means significant mental

1 suffering, anxiety or alarm.

2 (4) "Harass" means to engage in a knowing and willful
3 course of conduct directed at a specific person that
4 alarms, torments, or terrorizes that person.

5 (5) "Non-consensual contact" means any contact with
6 the victim that is initiated or continued without the
7 victim's consent, including but not limited to being in the
8 physical presence of the victim; appearing within the sight
9 of the victim; approaching or confronting the victim in a
10 public place or on private property; appearing at the
11 workplace or residence of the victim; entering onto or
12 remaining on property owned, leased, or occupied by the
13 victim; or placing an object on, or delivering an object
14 to, property owned, leased, or occupied by the victim.

15 (6) "Reasonable person" means a person in the victim's
16 circumstances, with the victim's knowledge of the
17 defendant and the defendant's prior acts.

18 (7) "Third party" means any person other than the
19 person violating these provisions and the person or persons
20 towards whom the violator's actions are directed.

21 (d) Telecommunications carriers, commercial mobile service
22 providers, and providers of information services, including,
23 but not limited to, Internet service providers and hosting
24 service providers, are not liable under this Section, except
25 for willful and wanton misconduct, by virtue of the
26 transmission, storage, or caching of electronic communications

1 or messages of others or by virtue of the provision of other
2 related telecommunications, commercial mobile services, or
3 information services used by others in violation of this
4 Section.

5 (Source: P.A. 95-849, eff. 1-1-09; revised 9-10-08.)

6 Section 97. Severability. The provisions of this Act are
7 severable under Section 1.31 of the Statute on Statutes."